

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Mueller *et al.*

Serial No. 09/706,583

Filed: November 3, 2000

For: METHOD AND MONITOR FOR
ENHANCING ANGIOGENESIS IN
THE HEART BY EXERCISE
FOLLOW UP

Art Unit: 3762

Examiner: Francis P. Oropeza

Attorney Docket:
10177-137-999
(Formerly 5756-0008.30)

PETITION TO REVIVE UNINTENTIONALLY
ABANDONED APPLICATION UNDER 37 C.F.R. § 1.137(b)

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Applicants respectfully petition to revive the above-identified application under 37 C.F.R. § 1.137(b) on the ground that the application was abandoned unintentionally for failing to respond to the Office Action mailed on July 16, 2002.

On July 16, 2002 a Notice of Restriction and/or Election Required ("Notice") was mailed by the Examiner for the present application. Subsequently, the application became abandoned apparently for failure to respond to the Notice. Applicants only became aware that the application had been abandoned when Applicants' representative received a call from the Examiner on January 17, 2003.

The entire delay in filing the required response from the due date for the response until the filing of this Petition under 37 C.F.R. § 1.137(b) was unintentional. Applicants note that this Petition is being submitted within two months from the date Applicants were first aware that the above-identified application had become abandoned, *i.e.*, January 17, 2003.

In accordance with 37 C.F.R. § 1.137(a) and M.P.E.P. § 711.03(c), an election to the restriction requirement is being submitted herewith as a response that is believed to be a submission responsive within the meaning of 37 C.F.R. § 1.111. Applicants respectfully request that this Petition to revive the unintentionally abandoned application be granted and that the enclosed materials be entered into the file of the above-identified Application.

It is believed that a fee of \$650 is due for this Petition. Please charge the required fee to Pennie & Edmonds, LLP Deposit Account No. 16-1150. A duplicate of this sheet is attached.

Respectfully submitted,

Date: February 18, 2003

By:

Gidon D. Stern

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